

85-00480

OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

AUG 20 1985

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL

H. WARD McMILLAN, JR.
EXECUTIVE ASSISTANT
TO THE ATTORNEY GENERAL

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
ADMINISTRATIVE ASSISTANT

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130

AREA (205) 261-3350
B. FRANK LOEB
RON BOWDEN
JOHN J. BRECKENRIDGE
CHARLES E. CRUMBLEY
MARK D. GRIFFIN
ADOLPH J. DEAN, JR.
J. WADE HOPE
ASSISTANT ATTORNEYS GENERAL
REVENUE DEPARTMENT

Honorable Woodford W. Dinning, Jr.
Attorney for Marengo County Commission
P. O. Drawer Z
Demopolis, AL 36732

Marengo County - Counties -
Salaries

Tax receiving entities must share
in expenses of salary of Revenue
Commissioner in Marengo County.

Dear Mr. Dinning:

In your request for an opinion on behalf of the Marengo County Commission, you ask whether the Commission may require the tax receiving entities to share in the expenses of the salary of the revenue commissioner, as provided in Act 82-620, in light of the provisions of Act 83-713, which creates the office of revenue commissioner in Marengo County and provides for his salary. Act No. 82-620 established minimum salaries for local taxing officials and abolished the fee system in every county in which it was adopted. The Act provides:

On and after the effective date of this Act and upon approval by the county governing body of a resolution of authorization, the tax assessors, tax collectors, revenue commissioners, license commissioners, or other persons charged with assessing and collecting ad valorem taxes in the various counties of this state, shall be compensated by an annual salary, each of such officials to receive as a minimal, except as hereinafter provided, an annual salary in the amounts specified by the following schedule:
... The salaries, as above determined, shall be paid on a pro-rata basis out of the

monies collected each tax year into the general fund of each respective county of the state, and thereafter paid from said fund to such officials in equal installments. The pro-rata share of the official's salaries to be paid by each fund or agency receiving ad valorem taxes shall be determined in each county by computing the percentage that the total collections for each fund or agency bears to the total collections of ad valorem taxes.

I infer from your letter that Marengo County passed a resolution subjecting it to the provisions of Act 82-620. Subsequently, Act No. 83-713, providing for the consolidation of the offices of tax assessor and tax collector into the office of revenue commissioner in Marengo County, was passed. This Act also provided for the compensation of the revenue commissioner:

As compensation for [the] performance of the duties of his office, the revenue commissioner will receive a salary of not less than \$30,000.00 and not more than \$48,000.00, payable in twelve equal monthly installments, with the exact amount to be set by resolution of the Marengo County Commission prior to the revenue commissioner taking office. If no action is taken by the Marengo County Commission before the revenue commissioner takes office at each term, his salary will be \$30,000.00.


Section 10 of Act 83-713 provides that all laws or parts of laws which conflict with the Act are repealed. The question to be decided is whether the provisions of Act 83-713, a local law establishing a salary for the revenue commissioner, is in conflict with or for any other reason repeals the provisions of Act 82-620, providing for the pro-rata payment of the salary of the revenue commissioner. This question is answered in the negative. A special law that is repugnant to a former general law relating to the same subject matter that is not merely affirmative, cumulative, or auxiliary, repeals the general law by implication to the extent of the repugnancy, within the limits to which the special law applies. Such a special law may suspend the operation of conflicting provisions of the general law in the territory in which the special law is operative, Pitts v. Culpepper, 229 Ala. 449, 157 So. 841 (1934). It has also been held that a general statute is not repealed by implication by a local statute unless the legislative intent to effect such a repeal is clearly manifested, Norris v. Seibels, 353 So.2d 1165 (Ala. 1977). It does not appear that Act 83-713 is in conflict with those provisions of Act 82-620 providing for the payment of the revenue commissioner's salary on a pro-rata basis by the tax receiving entities. Act 83-713 appears to be merely affirmative,

cumulative and auxiliary to Act 82-620. Therefore, your question is answered in the affirmative.

Sincerely yours,

CHARLES A. GRADDICK,
Attorney General

By-



RON BOWDEN,
Assistant Attorney General

RB:jt